

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Amanda Harouche	Team: Team # 1	CCRB Case #: 201401012	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 01/31/2014 9:00 PM	Location of Incident: § 87(2)(b)	Precinct: 121	18 Mo. SOL 7/31/2015	EO SOL 7/31/2015	
Date/Time CV Reported Mon, 02/03/2014 8:22 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 02/03/2014 8:22 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Genaro Barreiro	00308	950050	121 PCT
2. An officer			
3. POM Carlos Rueda	07843	949586	121 PCT
4. POM Frederick Daley	06749	950268	121 PCT
5. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Steven Cosentino	11555	948816	121 PCT
2. POM Thomas Quevedo	05154	951094	121 PCT
3. POM Victor Villarreal	04382	951397	121 PCT
4. SGT James Soares	03432	942564	121 PCT
5. POM Manuel Castillo	04173	904264	121 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Genaro Barreiro	Discourtesy: PO Genaro Barreiro spoke discourteously to § 87(2)(b)	
B.POM Carlos Rueda	Discourtesy: PO Carlos Rueda spoke discourteously to § 87(2)(b)	
C.POM Genaro Barreiro	Force: PO Genaro Barreiro used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
D.POM Frederick Daley	Force: PO Frederick Daley used physical force against § 87(2)(b)	
E. Officers	Force: Officers used physical force against § 87(2)(b)	
F. An officer	Discourtesy: An officer spoke discourteously to individuals.	

Case Summary

On January 31, 2014, at 9:00 p.m., § 87(2)(b) was driving a Chrysler 300, which had tinted windows and belonged to his sister, § 87(2)(b) who was a passenger, along with his two friends. The car was pulled over in front of § 87(2)(b) in Staten Island by PO Genaro Barreiro, PO Frederick Daley, and PO Carlos Rueda, of the 121st Precinct, who were in a marked van. § 87(2)(b) was told she was going to receive a summons for drinking a beer while in the car. While the officers began writing the summons, § 87(2)(b) who had been leaving the home where his son leaves, approached, told the officers to leave § 87(2)(b) alone, and refused repeated requests to step away from the scene and go back into his home. An argument ensued, and PO Barreiro and PO Rueda allegedly used discourteous language with § 87(2)(b) (**Allegation A** and **Allegation B**). § 87(2)(b) was pushed against a retaining wall and after offering some resistance, was handcuffed. § 87(2)(b)'s step-son, § 87(2)(b) and § 87(2)(b)'s mother, § 87(2)(b) came running out of the house. § 87(2)(b) ran at the officers who were arresting § 87(2)(b). PO Barreiro put his hand out and pushed § 87(2)(b) in the face, causing him to be pushed backward (**Allegation C**). § 87(2)(b) pushed PO Barreiro, and another officer held § 87(2)(b) back. Other unidentified officers and PO Daley allegedly punched § 87(2)(b) in the ribs and PO Barreiro allegedly punched him in the head twice (**Allegation C, cont'd, Allegation D, and Allegation E**). § 87(2)(b) was taken to the ground, handcuffed, and picked up and removed to the 121st Precinct station house, where he § 87(2)(a) 160.50, § 87(2)(b)

§ 87(2)(b), § 87(2)(b) a neighbor and witness, heard a male voice in the crowd say to people he could not see in the crowd, "Get these fucking cameras out of my fucking face (**Allegation F**)."

(encl. 3a-e, 4a-g, 5a-h, 6a-d, 7a-f, 8a-b, 8c-d, and 8e-f)

Mediation, Notice of Claim, and Criminal Histories

This case was not eligible for mediation. As of May 22, 2014, a notice of Claim has not been filed with the City of New York (encl. § 87(2)(a) 160.50, § 87(2)(b); § 86(1)(3)(4); § 87(2)(c)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) and § 87(2)(b) (encl. d, e, and f).
 - PO Barreiro has been a member of service for three years (encl. a). PO Rueda has been a member of service for four years and this is his first CCRB complaint (encl. b). PO Daley has been a member of service for three years (encl. c). § 87(2)(g)
- § 87(2)(b)
- § 87(2)(b)

Findings and Recommendations

Allegations Not Pleaded

Vehicle stop: It is not in dispute that § 87(2)(b)'s vehicle had tinted windows, so no vehicle stop is being pleaded. **Stop:** Because witness statements corroborate that § 87(2)(b) continually attempted to interfere with officers conducting a car stop, and refused officers' orders to step away from the scene, a stop is not being pleaded. Further, a **Threat of Arrest** is not being pleaded, as it was a statement of fact, and § 87(2)(b) was subsequently arrested. Because witness

statements corroborate that § 87(2)(b) was not compliant with being handcuffed, and there is no indication that PO Rueda intentionally pushed § 87(2)(b)'s face into the snow while trying to handcuff a resisting civilian, no **Discourtesy Action** will be pleaded. Although § 87(2)(b) stated that officers told § 87(2)(b) to, "Shut the fuck up," § 87(2)(b) did not allege this on his own behalf; as a result, no **Discourtesy** allegation is being pleaded regarding that alleged statement.

Explanation of Subject Officer Identification

PO Barreiro and PO Rueda acknowledged interacting with § 87(2)(b) as a result, **Allegation A** and **Allegation B** are pleaded against them. PO Barreiro and PO Daley both acknowledged being involved in § 87(2)(b)'s arrest. As a result, **Allegation C** and **Allegation D** are pleaded against them. Because § 87(2)(b) could not see all of the officers who allegedly used physical force against him, because the other civilian statements varied greatly about which officers allegedly used physical force, and at which point, and generally provided vague physical descriptions that could match dozens of officers on patrol, because an 85 was called (encl. 17a-k) and numerous officers arrived on the scene without going over the radio, and because no other officers interviewed admitted to being involved in the arrest of § 87(2)(b), **Allegation E** is being pleaded against **Officers**. Because § 87(2)(b) could only hear a male voice use profanity, and he could not see who said it or who it was directed to, **Allegation F** is being pleaded against **An Officer**.

Recommendations

Allegation A: Discourtesy: PO Genaro Barreiro spoke discourteously to § 87(2)(b)

Allegation B: Discourtesy: PO Carlos Rueda spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that when he initially refused to leave the scene of the car stop, PO Barreiro told PO Rueda and PO Daley, "This asshole does not want to give me his ID." § 87(2)(b) alleged that when he was about to be handcuffed, PO Rueda said, "You're a fucking asshole. You should have just given me your fucking ID (encl. 5a-h)." § 87(2)(b)

§ 87(2)(b) and Philip § 87(2)(b) all testified to the conversation between § 87(2)(b) and the officers about his refusal to provide identification and leaving the scene, and his subsequent arrest. None of them stated that the officers used discourteous language during this exchange (encl. 8c-d, 8e-f, 6a-d, 8a-b, and 7a-f). PO Barreiro and PO Rueda denied using discourteous language (encl. 9a-p and 11a-g).

§ 87(2)(g)

Allegation C: Force: PO Genaro Barreiro used physical force against § 87(2)(b)

Allegation D: Force: PO Frederick Daley used physical force against § 87(2)(b)

Allegation E: Force: Officers used physical force against § 87(2)(b)

§ 87(2)(b) alleged that when he ran towards § 87(2)(b) PO Barreiro put out his hand and ended up pushing § 87(2)(b) backwards by pushing his face. § 87(2)(b) admitted to then pushing PO Barreiro. One officer stood behind § 87(2)(b) and held his arms while two other officers he could not describe allegedly punched him in his ribs several times on each side. PO Barreiro then allegedly punched him in the head twice. § 87(2)(b) was then taken to the ground and handcuffed (encl. 4a-g). Only § 87(2)(b) and § 87(2)(b) corroborated that PO Barreiro pushed § 87(2)(b) in the face, and none of the civilians admitted that § 87(2)(b) pushed PO Barreiro.

The civilian statements about the force used with § 87(2)(b) when he tried to interfere with his step-father's arrest vary greatly. § 87(2)(b) stated that he saw officers punch § 87(2)(b) on his sides, but then stated that an officer put § 87(2)(b) in a bear hug, lifted him entirely off the ground, and then threw him to the ground, at which point he was handcuffed (encl. 6a-d). § 87(2)(b) stated that the only force he saw was when PO Barreiro, PO Rueda, and PO Daley took § 87(2)(b) to the ground and got on top of him to handcuff him (encl. 8e-f). § 87(2)(b) stated that it was only backup officers (who she could only describe as white males) who punched § 87(2)(b) both while he was standing and while he was on the ground (encl. 8c-d). § 87(2)(b) stated that PO Barreiro punched § 87(2)(b) in the face, PO Daley also punched § 87(2)(b) and threw him to the ground, at which point PO Barreiro, PO Daley, and a white male backup officer punched § 87(2)(b) while he was on the ground, both before and after he was handcuffed (encl. 5a-h). § 87(2)(b) stated that it was PO Barreiro who held § 87(2)(b)'s hands behind his back, while three other officers, two of whom were white males and a third she could not describe, as well as PO Barreiro, took turns punching § 87(2)(b) repeatedly on his face and body (encl. 3a-p). § 87(2)(b) stated that he saw three uniformed white male officers not only punch § 87(2)(b) multiple times, but that § 87(2)(b) was also kneed in the stomach (encl. 7a-f). § 87(2)(b) could not see clearly because of the flashing lights of the police vehicles, and only saw one officer, she did not know who, punch § 87(2)(b) in the face (encl. 8a-b).

The Medical Treatment of Prisoner Report notes that § 87(2)(b) had a laceration on his left knee and scratches to his finger; it also states that § 87(2)(b) did not want § 87(2)(b) to go to the hospital so medical treatment was refused (encl. 18a).

PO Barreiro stated that when he saw § 87(2)(b) running at him, he stepped aside, causing § 87(2)(b) to run into a crowd of officers. PO Barreiro could not see what happened inside the crowd, and denied punching § 87(2)(b) or seeing anyone punch § 87(2)(b). PO Barreiro grabbed § 87(2)(b) out of the crowd of officers, and when § 87(2)(b) tried to fight PO Barreiro, the officer took him to the ground, and handcuffed § 87(2)(b) without assistance (encl. 9a-p). PO Daley stated that he saw § 87(2)(b) take a swing at PO Barreiro, who ducked to avoid contact, and then grabbed § 87(2)(b) in a bear hug, while facing each other. PO Daley also grabbed § 87(2)(b) and helped PO Barreiro bring him to the ground. PO Daley stated that it was possible he would have punched § 87(2)(b) on the sides while § 87(2)(b) was on the ground, so § 87(2)(b) would give them his hands. PO Rueda assisted with the handcuffing at the end. PO Daley did not recall himself or any officer using any additional force (encl. 10a-g). PO Rueda was handcuffing § 87(2)(b) when he saw § 87(2)(b) take a swing at PO Barreiro, although he was not sure if § 87(2)(b) made contact. PO Rueda called in a 10-85 (officers in need of assistance). Because PO Rueda was involved in handcuffing § 87(2)(b) he was unable to see most of the interaction between § 87(2)(b) and the officers, and was not involved in § 87(2)(b)'s arrest (encl. 11a-g). Sgt. James Soares could not recall the incident with enough detail to determine if he was there prior to § 87(2)(b) and § 87(2)(b) being arrested, although he believed he arrived after (encl. 12a-e). None of the other officers interviewed recalled this incident (encl. 13a-d, 14a-e, 15a-d, and 16a-d).

§ 87(2)(g)

§ 87(2)(g)

Allegation F: Discourtesy: An officer spoke discourteously to individuals.

§ 87(2)(b) alleged that he heard but could not see a male voice he believed belonged to an officer tell a person or people he could not see, who had gathered during the incident, “Get these fucking cameras out of my fucking face (encl. 6a-d).” No other civilians alleged this. § 87(2)(g)

Team: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date